

July 30, 2002

5/003/020

Brad D. Palmer, Assistant Field Manager
Non-Renewable Resources
Bureau of Land Management
Salt Lake Field Office
2370 South 2300 West
Salt Lake City, Utah 84119

Re: 3809 Your Letter Received 7.15.02, but not dated.
UTU-69380
UT-023

Greetings,

I appreciate the time you spent reviewing my Turquoise Stone Quarry with Mike Ford, Lyn Kunzler, and John Kirkham on July 17th. Shortly thereafter I had to leave for Washington and have just returned, so I wanted to reply to your letter A.S.A.P.. At our meeting I feel that we accomplished a great deal and clarified the current issues. In one half of a day we resolved issues that have been unresolvable over the course of the past several years.

First I wish to answer your letter received on 7.15.02. In our abbreviated plan amendment we said we would be operating only on parts of Turquoise Stone #1 PMC 132860, and Turquoise Stone #1 MS UMC 132861, #2 UMC 347327, #3 UMC 347328, and #4 UMC 347329, NOT Turquoise stone #6 PMC, UMC 347331 and Turquoise Stone #7 PMC, UMC 347332. Our most current map submitted outlines the areas we work in EXCEPT the deletion of the upper working quarry that will not be worked per our discussion at the meeting. Please X that off of your map. We agreed to use the fence line bordering the Dugway Road as our uppermost working area.

It was also agreed that we would be allowed to continue with our restoration and clean up work from previous ownership operations in the upper quarries and in the canyon below the old rock crusher. In addition, when we move our crusher operation from its present location on Mill Site No. 3 to the new location on Mill Site No. 4, the disturbed area on Mill Site No. 3 will be promptly restored. Since our move from No. 3 to No. 4 and the restoration work should take no more than 60 days, we should not be charged with disturbed area on both Mill Sites.

Item 1. Your Letter: We discussed that our operation would probably fall somewhere between a small and a medium size operation per Utah mine assessment standards. We discussed splitting Mill Site No. 4 down the middle for disturbed and undisturbed areas. This would probably work, but it will be important for myself, Lyn Kunzler, and whomever from your office to be on site when the measuring is done to preclude any future misunderstandings like we have had in the past.

A very important issue to address here is our second half of the mineral entry final certificate. Per enclosed copy of December 31, 1992 letter, confirming the first half of the final certificate, payment of fees and purchase money, and the elimination of the requirements to file affidavit of assessment work or notice of intent to hold with the county and the B.L.M., it seems to me that we are unfairly being subjected to ever changing rules and opinions, all of which are costing my company a large fortune and loss of business. The irony here is that all of this may be illegal and in the face of our obvious dedication to business and environmental integrity, we have not been afforded one single recognition for the efforts until you arrived. To briefly recap our investment in this 100% legitimate patent process, I will give you some numbers.



NORTHERN STONE SUPPLY, INC.

Producing Quality Building Stone Products for Worldwide Distribution

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DIVISION OF
OIL, GAS AND MINING

A. Surveys and maps by Glen Fuller and Northern Stone Supply - \$30,000.00.

B. Legal fees, personal time @ \$20.00 Hr. and travel expenses - \$60,000.00 / \$90,000.00 very conservative number. Plus loss of income over the past 12 years because the patent process has been stonewalled. You can only imagine that number. Take 50% of \$90,000.00 = \$45,000.00 and add a mere 5% return on capital invested for 12 years and you can add another \$22,500.00. Add this to \$90,000.00 and you can quickly see \$112,500.00 which equates to \$1,250.00 (very, very conservative estimate) for the cost of the patented lands at this point in time. Way, way above current land values in the area. Couple this with excessive taxes from Utah for land values for the claims, (way high relative to our restricted use) in addition to several other state and county taxes, fees, licenses etc. and we have a serious burden. The average small business would be down the toilet with this economic burden within 1 or 2 years in our current economic climate. After 48 years of grinding it out in the same business with a commitment to do it right, we have carved a niche and have had the funds to do this extraordinary project, but how long can we keep it up? This is an open ended question and we must retain our legal rights and meet the requirements of the LEGAL LAW or all is lost.

I believe I told you that we had about 3 million dollars invested in this project since we purchased the property. Land Purchase, equipment, infrastructure up grades, clean up work, required road work, surveys and patent details, taxes, fees and basic

overhead. Because we have never been able to fully focus on production and marketing, our original plans have been short circuited to a large degree. This has been very costly in terms of lost business opportunities and no real return on investment. The market is there and we have major players waiting to become involved when we can guarantee to produce. How long will they wait? Lost time is money down the drain. In the past we have been dealt with very unfairly and unethically and possibly illegally by the B.L.M.. Now that you have seen the quality of our project, our intent and ability to operate a model quarry, I believe that you would agree that it is time to move ahead and conclude details on a fast track rather than taking years.

Item 2. In our tour I believe I sufficiently explained how we would restore behind our working area as we moved ahead in a particular quarry.

Item 3.

1. I still question how we can be legally responsible for reclamation on all of the roads we did not build. As we discussed 90%

of the roads on our patent pending property. This is one of the most legitimate patents ever filed and we have spent large sums of money with the understanding that it would be granted. Glen Fuller before me, and myself for the past 10 years have complied 100% with the patent process, sometimes going to far, as complying with the absurd 10 acre rule, and spending another \$15,000.00 on survey work. We will be diligently pursuing the issuance of our patent using every legal means at our disposal. This is a moral issue with me, as it was with Glen Fuller. I have been hoodwinked before by the U.S. Government, sustaining a substantial loss, and it won't happen again.

We have talked about the ultimate end use of this beautiful property at the end of mining. Wildlife viewing, photography, geology study, hiking, rock hound use, and possibly other limited uses. The roads would serve as wonderful access and hiking trails and even handicapped person access. This is a very special and unique area, as I think you will agree, and at the end of our quarrying operation, what better use could there be for the land? Assuming we ultimately restored 50% of the roads utilizing our equipment and pulling side cast material back up on to the road way, it would require two machines and 2 men. The job could be completed in 1 week at a cost pf \$5,000.00.

2. The soil over the edge of the road is "TOPSOIL". In addition we are constantly producing topsoil from our crushing and screening operation and have a large stock pile ready for whatever use.

3. Seeding is basically a futile exercise in this arid area. We have found that from 1 to 3 years, the native plants will reestablish

if the soil is left alone. Then as the native plants mature they will gradually out compete the so called "noxious weeds" that may show up along road edges. If cattle are allowed to graze in an area you will of course have noxious weeds around until hell

freezes over.

4. We could rip and scarify all of the used Mill Site areas in less than one day at a cost of \$500.00 or less.
 5. As previously stated, we have not removed any topsoil from the Mill Sites. Proof of that is in extensive reclaimed areas that have started to re vegetate in one season. Again, we have lots of topsoil for whatever.
 6. You have of course noted that most of the structures are on our patent pending area. The worker bunk house, vault toilet, and scale are on Mill Site No. 2. The worker bunk house could be moved and sold locally for enough money to do the entire project. We spent over \$20,000.00, 9 years ago constructing that cabin. It is first class. The clean up costs would be no more that \$5,000.00 and take only 1 week. We made the proposal to reclaim the old mine sites when you visited, even though we are not liable. We are willing to make that commitment as we did in the canyon below the crusher.
- Item 4. We discussed our non use of the pre 1955 roads except for the one lower working area designated on our latest map. We have no reason to use or maintain the roads in our non active working areas. The work done on the roads was mandated by the Mine Health Safety Administration and solved future erosion and safety problems. No maintenance or use would be required until we declared intent to activate a new working area.

Our proposed future use area includes all of the old quarries shown on our latest map.

Other items covered at our meeting included the following;

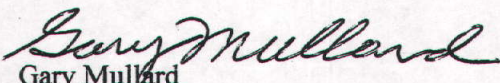
1. County Health Department regulations concerning out houses, vault toilets, etc.. We are contacting the agencies concerning those details and will advise.
2. We reviewed our 1 ½ year old request to purchase surface stone from the B.L.M. section south of the Cattle Association gate. You agreed to move on that and advise on a prompt basis.

If I have missed anything or if you have additional questions please let me know. I am looking forward to a new level of communication with the B.L.M. and developing a relationship that leads to problem resolution before a potential problem becomes a "problem". Also, a win, win situation where legitimate B.L.M. objectives can be met, environmentally precedents are established and the battered American economy can be energized by creative, honest, and hard working companies that are sincere about quality before profit.

For your information, I am enclosing some information about Glen Fuller and my dealings with him over the course of 25 years. The foundation of America has been built around men like Glen and we should not let it be eroded. Again, I wish to thank you

for your concern and time spent at our July 17th meeting.

Sincerely,


Gary Mullard
President

lw

cc: John Kirkham, Lyn Kunzler

enclosures: B.L.M. Dec. 31, 92 letter, Jan 1, 2000 letter & B.L.M. patent letter, Glen Fuller Obituary.

*Brad Palmer***The Salt Lake Tribune**

Utah's Independent Voice Since 1871

FRONT WORLD UTAH BUSINESS SPORTS OPINION SCIENCE

Thursday, December
30, 1999**Glen Eugene Fuller**

Glen Eugene Fuller, 78, passed away peacefully early Monday morning, December 27, 1999.

Glen was born in 1921 and raised on a farm in Eden, Utah where he learned the values of work, honesty, integrity and justice. He lived these values throughout his life and spent every day striving to satisfy his thirst for knowledge of the world around him. Early in life, Glen survived polio and a logging accident. Both of these occurrences helped him realize the value of life and the gifts with which he had been blessed.

Glen loved farming, economics and the law. He graduated in 1945 Summa Cum Laude from Utah State University with a degree in Economics. The following year he entered the University of Utah School of Law where he excelled and was granted the Newell Scholarship to attend Stanford Law School, where he graduated with honors in 1948.

Glen met Connie June Jensen in Huntsville, Utah. They were High School sweethearts and married in 1946 and have remained dedicated, loving companions for the past 53 years. Following Stanford Law School they settled briefly in Corona Del Mar, California. The Valley beckoned their return in 1949, where Glen worked the farm and began to establish an astonishingly successful law practice centered around Eminent Domain. Glen specialized in the representation of farmers whose land had been condemned by federal and state agencies for the building of freeways and water projects. He litigated over 500 cases in a variety of courts, including the United States Supreme Court.

As Glen's law practice evolved, the couple moved to Salt Lake City. While building a home in the Upper Avenues, Glen discovered a building stone that he desired to place on the home. The stone was not in regular production so he staked a quarry claim near Park Valley, Utah. Glen, his father-in-law and his two sons worked the quarry for over thirty years sending thousands of tons of this beautiful stone around the world. This experience led to service in the Building Stone Institute where Glen served as President. His fascination with stone work led to a unique view of archeology, particularly the use of building stone by the Mayan and southwest Native American cultures. Glen published three books that

presented well founded theories on how these peoples used building stone.

Glen was an aviator. He owned and extensively used two Cessna aircraft (72Bravo/69Gulf) in his profession as an attorney, a quarryman and archeologist. No less than a dozen flights were made to the Mexican west coast, its interior and the Yucatan, as well as Guatemala and Honduras as he researched archeological theory. Concurrently, Glen also served for several years as corporate general counsel for Portland Cement Company where he successfully managed its sale to Lone Star Cement in the early 80's. Glen basically made a bunch of farmers and friends very rich! He established the Fuller Foundation which granted over 400 college scholarships to outstanding High School Seniors throughout the state of Utah.

After "retirement", Glen spent his summers at Lake Creek, a 100 plus acre tract of beautiful wooded mountain land east of Heber City. Glen loved to watch the moose, deer and elk come to the lake to cool off and enjoy the salt lick. Just above the shore of the lake he recently completed the perfect cabin complete with running water and electricity. This is where his family will remember that he received the most joy, from God's natural surroundings.

Glen is survived by his wife Connie, four children: Kate and Greg Wacker, Kim Fuller, Kent and Chris Fuller, Kelly and Buzz Welch; ten grandchildren; and siblings, Betty Lund, Evelyn Hess, Mark Fuller, and Lloyd Fuller. Preceded in death by his parents and brother, Jack.

The family wishes to thank the caring professionals at LDS Hospital who provided the highest level of care which allowed Glen to pass with dignity and in comfort.

Funeral services will be held Thursday, December 30, 1999, 2 p.m., at Larkin Mortuary, 260 E. South Temple, where friends may call Wednesday evening from 6:30-8:30 p.m. and Thursday one hour prior to services. Entombment Garner Mausoleum, 1001 11th Avenue.

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UTAH ONLINE | THE TRIBUNE | CITY LIGHTS | UTAH SOUND | TRIBTALK | TRIBACCESS

January 1, 2000

In memory of Glen Fuller who passed away on Tuesday 12.28.99 after a courageous battle with cancer.

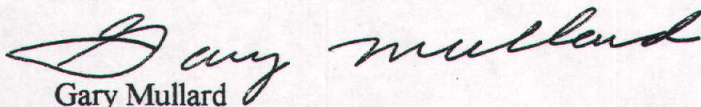
He was a man of immense integrity, fairness among his fellow man, an advocate of the work ethic and the free enterprise system without bureaucratic government intervention. He was a practicing attorney for over fifty years and personally ran and built the Park Valley Turquoise Stone Quarry, along with the help of this son Kim, into one of the finest and most respected decorative building and landscape stone quarries in the U.S.. He was always willing to pitch in and do more than his share, serving as a past president of the Building Stone Institute and promoting small business, the free enterprise system and a strong work ethic as the back bone of our fast sinking democratic system.

Everyone admired and respected Glen's vision, knowledge and friendly manner, unless of course, you happened to be one of the few who tried to undermine his honesty and integrity with a warped vision and idea of how a law was to be interpreted. During Glen's last days his family was beside him and I like to think that he was ready and resigned to another life after making so many accomplishments and examples for others to follow and too many skirmishes with the despised bureaucracy.

He leaves behind in his family his loving wife Connie who was beside him most of his years, two sons and two daughters all residing in Salt Lake City making responsible accomplishments in their own areas of expertise. I had the pleasure of knowing Glen on a personal level and doing business with him for some thirty five years. His word was always his bond and he worked extremely hard to maintain that integrity. Hard work is fun, fulfilling and soul satisfying if you love what you are doing and that work has a genuine benefit to society and future generations. Glen's law practice and his Turquoise Stone Quarry property fulfilled those goals and ideals.

I feel fortunate in having Glen's trust when it came time for him to look toward a qualified and responsible person to take over the operation of a major part of his life's work developing the Turquoise Stone Quarry at Park Valley. He entrusted in me the next major phase of carefully developing this rare property in such a way that it would carry on the tradition, and the quarry into the next century of business opportunities and stand as a shining example of environmental integrity and an outstanding example for other to follow in the natural stone quarrying business.

To that end I have a life long commitment.



Gary Mullard
Northern Stone Supply, Inc.
Oakley, Idaho



NORTHERN STONE SUPPLY, INC.

Producing Quality Building Stone Products for Worldwide Distribution

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- Copy -

Law and Business Offices of

GLEN E. FULLER

245 N. VINE ST., #608
SALT LAKE CITY, UTAH 84103

801-355-5696

December 30, 1994

Idaho

Senator Larry Craig
313 Hart Senate Bldg.
Washington, D.C. 20510

Re: 1872 Mining Law

Dear Senator:

During the next few months Congress will again address the matter of repealing or amending the 1872 Mining Law (30 U.S.C. #21, et. seq.). As committee hearings progress, there will be claims and counterclaims submitted by interested parties (including myself) who have personal interests at stake; however, there are other concerns of general national interest which have either been put on the backburner or ignored completely. I shall briefly discuss a few of them.

I.

SHOULD THE 1872 MINING LAW BE REPEALED?

When the 1872 Mining Law was enacted, most of the nation where the bulk of federal lands were located was in the initial stages of development. Hard-rock, grub-staked miners were everywhere, seeking to find a great, surface ore body and to "strike it rich." Every foot of the then U.S. owned as federal lands was literally examined--not once, but many times over.

The days of the solitary prospector are now gone; easily discovered mineral deposits are no longer to be found. And, of further concern, technological advances have added to the problem by dictating quality standards so high and strict as to exclude many mineral products from being available for commercial or industrial use (if at all), except by applying extensive and expensive treatment processes to them.

Let's face it: We have high-graded our available mineral resources to the point where, down the road, we will have them no more. As oil drillers must spend millions of dollars to drill ever deeper into the ground or beneath the ocean surface to recover oil; as gold or other metal producers must move millions of tons of material and apply sophisticated treatment processes in order to extract commercial and industrial metals; as cement and other related industries must constantly search for new sources of calcium carbonates that will meet low-alkali or other high standards set by governmental agencies or commercial demands--we must ask ourselves if government can undertake the job in the future. The answer is that only private industry must do so. And, in view

of the fact that depletion allowances have been under attack in recent years, the entire mining industry is now operating at high risk.

When Interior Secretary Babbitt bemoaned the \$11 billion "give-away" when a mining patent issued to a Nevada gold producer, he failed to inform the public that, after paying numerous taxes, labor costs, equipment investment and depreciation, legal fees, and other numerous operating costs, perhaps that gold producer might (hopefully) recover 10% to 15% as a profit margin. Such slanting of the true situation should be grounds for his immediate removal.

Except for values created by high-risk mining activities, most of the affected federal lands being mined today would otherwise fail to be worth more than a few dollars per acre in the market place.

II.

SHOULD MINING PATENTS BE DENIED?

Most mining operations on federal lands (including my own) were not pushed for patents in years past, partly because of the dearth of BLM-certified mineral surveyors and partly because the 1872 law represented a covenant with the mining industry that property rights would be protected by that Act and the Fifth Amendment to the U.S. Constitution.

Pending Bills submitted to Congress by Mining Law opponents would deny existing patent claimants any recovery for large investments in roads, yards, storage sheds, crushing equipment, garages, workers' living quarters, utilities and other facilities, all of which are classified by law as real properties. To confiscate such properties (for government use), without compensation, will certainly involve Fifth Amendment "taking" claims being filed with the U.S. Court of Federal Claims.

To deny patent protection to those mining interests who have, or in the future will have, invested great sums of money in real property improvements and/or fixtures will obviously discourage and severely limit future mining operations in our nation.

III.

SHOULD A ROYALTY PROGRAM BE INSTITUTED?

Having represented corporate taxpayers in income-tax depletion-

* This writer has had a building-stone patent application pending before the Dept. of Interior. Although having spent \$1,000 for BLM fees, \$544 for title search and publication, \$9,050 for certified-surveyor costs, and \$190 paid to (and received by) the BLM for approximately 72 acres of desert-type land, and also having received a First Half Entry Final Certificate for Patent from the Utah BLM office on Dec. 31, 1992, Secretary Babbitt and his supporters have secured a patent moratorium covering the past three years (and more).

allowance litigation in recent years, I can anticipate contention and litigation involving any attempt to exact royalty payments on mining production, whether from gross sales or some other method, because of arbitrary and discriminatory problems. Given the vast differences in sales volume, accounting procedures, mining-vs-manufacturing cost allocations, and similar problems peculiar to different mining operations, any across-the-board royalty assessment can only result in administrative chaos and added litigation for an already overloaded court system. Proponents of a royalty-payment program should give this matter second thoughts before enacting any law providing for so much future trouble.

IV.

SHOULD THE 1872 MINING LAW BE AMENDED?

Some of the abuses under the existing law, such as trespassers stealing mineral products from federal lands, so-called "mining claims" being filed to justify vacation homesites, and falsification of annual assessment reports when no such work was in fact made on claims, have all been rectified by existing laws or recently enacted Regulations.

Further, various state and federal laws protect and regulate environmental concerns: Clean Air, Clean Water and Water Quality, Hazardous Wastes (CERCLA and EPA), and, specifically, Mined Reclamation Acts providing for restoration of mining lands (even when privately owned) consistent with maintaining the quality of the environment.

SUMMARY

It appears that now, as never before, the 1872 Mining Law should be retained, subject only to minor amendments to be adopted after careful consideration

On a separate sheet I have set forth my involvement in specific areas of activity which have been addressed in this letter.

Sincerely,

Glen E. Fuller

Glen E. Fuller
245 N. Vine St., #608
Salt Lake City, Utah 84103
(801) 355-5696

RESUME

- Developer and operator of FULLER QUARRIES, distributing building-stone products throughout the U.S. and Canada. (1954-1991)
- Practicing trial lawyer (and appraiser) representing property owners in land condemnation (eminent domain) and IRS matters-- farm and urban lands, gravel deposits, limestone deposits, aggregates and building-stone deposits--in 500 litigated cases, appearing before the following courts: Utah District Courts, U.S. Federal courts in Utah and Idaho, U.S. Tax Court, U.S. Claims Court and the U.S. Supreme Court. (1947-1994)
- Past president (and long-time director) of the international Building Stone Institute (BSI).
- Legal counsel and Resource Analyst for Portland Cement Co. of Utah and for the Utah division of Lone Star Industries. (1960-1991)
- Juris Dr., Stanford University (1947)
- Books:
 - GODS IN STRANGE PLACES--The Untold Story of the Maya ANASAZI--Builders of Wonders

12/30/1994

* FULLER QUARRIES was acquired in 1991 by--

AMENDMENTS

TO THE

CONSTITUTION OF THE UNITED STATES

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT II

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

In September of 1991 Northern Stone Supply, Inc. Purchased Glen Fuller's Law and Business Offices of Tongue Stone Quarry

ATTORNEY AT LAW
(801) 363-7187

GLEN E. FULLER

245 N. VINE ST., #608
SALT LAKE CITY, UTAH 84103

FULLER QUARRIES
THE FULLER FOUNDATION

April 4, 1991

Hon. Nick Joe Rahall, Chairman
Mining and Natural Resources Subcommittee
819 House Annex One
Washington, D. C. 20515-6206

Copy -

STATEMENT FOR THE RECORD

Re: H.R. 918
Mineral Exploration and
Development Act of 1991

Dear Congressman Rahall:

I submit herewith for the Record my comments respecting the above-referenced legislation:

BACKGROUND

I have been a practicing attorney for 43 years, specializing in real property law and condemnation litigation on behalf of property owners whose lands have been taken for the Interstate Freeway system, reservoirs and other public-type projects. During that time I have litigated more than 500 condemnation cases. In addition, I was general counsel for Portland Cement Company of Utah and its successor, Lone Star Industries, Inc., from 1960 through 1990. In my capacity as General Counsel I was actively engaged in location, assessment work, and other aspects of mining claims in Utah and Idaho.

In 1954 I filed on a large building stone deposit in northern Utah, and for 37 years past we have developed the property and religiously filed annual proof of labor reports, as well as other documents required by law. Fuller Quarries has distributed a blue-green Quartzite building stone throughout the United States and, if I may so state, we have one of the finest small quarry operations in the United States.

* 7/24/92 Copy sent to Jerry Ching - K-Clark

Hon. Nick JoeR ahall, Chairman
Mining and Natural Resources Subcommittee
Page 2 April 4, 1991

As an incident to my building stone quarry operations, I published GODS IN STRANGE PLACES--The Untold Story of the Maya; also, at the present time I have submitted to the typesetter another book entitled ANASAZI--Builders of Wonders. Both books are based on the underlying theme of understanding the characteristics and incidents of building stone deposits.

I am a past president of the international Building Stone Institute (BSI), headquartered in New York City, and I also served on its board of directors for many years.

GENERAL OBSERVATIONS

✓ During the 37 years of our building-stone quarry operation we have observed and been harassed by actions on nearby federal lands that have constituted the worst kinds of abuse: speculators filing many claims on thousands of acres; freeloaders with 4-wheel-drive vehicles traversing mountain areas of the West, stealing loose building stone (without filing claims) and creating vertical trails up and down slopes and ridges, and leaving erosion-created scars everywhere; and family compounds of "squatters" living in canyon areas under the umbrella of "mining claims."

It is time to stop such activities.

In general, HR 918 will alleviate some of the aforementioned problems, particularly through increasing filing fees, development expenditures, lease payments, reclamation requirements, and detailed claim-filing procedures. However, your Subcommittee should carefully consider the following caveats since, as so often happens with remedial legislation, the culprits aren't controlled and the burden falls upon those who least need to be legislated against. 1-10-00 THE B.L.M. AND THE FOREST SERVICE HAVE NOT TAKEN ONE STEP TOWARD SOLVING THIS PROBLEM

1. You can expect that there will continue to be speculators, squatters and freeloaders, as before, who do not file claims or leave evidence of their doings--but I believe this will be diminished nonetheless.

AND OF COURSE THE BLM IS ATTEMPTING TO DESTROY THIS MODEL OPERATION THAT BOTH ELEN FULLER AND I HAVE WORKED SO HARD TO BUILD. Gary mullend N.S.S. clm.

Hon. Nick Joe Rahall, Chairman
Mining and Natural Resources Subcommittee
Page 3 April 4, 1991

2. The "prudent man" and "economic profitability" tests, considered with the additional costs imposed by this legislation for development expenditure and/or per-acre rentals, will, in my opinion, probably destroy up to 90% of presently existing small mining and/or quarrying operations.

3. The physical on-site policing and administrative costs will certainly create a bureaucratic nightmare--as any informed BLM administrator can attest.

4. The proposed Act is inconsistent, arbitrary, and disregards (or attempts to cover with generic provisions) many local mining conditions and situations peculiar to different types of minerals and different localities--requiring, in my opinion, considerable additional investigation by the framers of the proposed Act with BLM personnel.

SPECIFIC OBJECTIONS TO SEC. 108
(Limitation on Patent Issuance)

(A)

✓ Many of us who have viable mining claims have not taken them to patent, believing that the government would do the right thing if the mining laws should be changed. Specifically, we have added improvements to the claims (including Millsite Claims) which, if they were abandoned or taken without due process of law, would run into hundreds of thousands of dollars for each claim (and Millsite Claim). Surely, such improvements at some point in time would have a bearing on lease rental payments and the effect would ultimately manifest itself in a windfall or unjust enrichment running to the federal government.

The provisions of present law allowing for patents contain all of the ingredients of a solemn contractual arrangement between the United States and the claim locators. Further, as I view it from my extensive experience as a condemnation lawyer, both before state tribunals and the U.S. Claims Court, without substantial modification

Hon. Nick Joe Rahall, Chairman
Mining and Natural Resources Subcommittee
Page 4 April 4, 1991

of Sec. 108 (if enacted), many of us will be claiming a 5th Amendment "taking".

I strongly recommend a revision of proposed Sec. 108 to protect vested rights of those who have improved federal mineral lands with their funds, sweat and lives. Patents should not be denied. Any law denying patents under such circumstances must be suspect as to its real purpose.

(B)

Even if the courts might permit a confiscation of established rights and values, Sec. 108 has a built-in flaw that indicates a lack of understanding on the part of its framers. This, too, has the same 5th Amendment objections and, additionally, raises an "Equal protection" objection.

You will note that the proposed Act denies a patent unless a "patent application was filed on or before February 6, 1991;..." As a procedural matter, such a cut-off date has extremely arbitrary features since the filing of a "Patent Application" often-- and always in the case of lode claims and unsurveyed placer claims-- comes at or near the end of extensive patent-application costs and procedures.

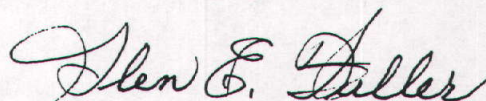
For instance, in the case of lode and unsurveyed placer claims, the BLM will not accept a Patent Application until after the survey has been approved. In the meantime, the applicant will have gone through numerous preliminary activities, beginning with a written "Application for Survey of Mining Claims" and a non-refundable deposit of \$700. Subsequently, after several months' time and complying with very detailed procedures, including several thousand dollars invested in survey costs, only then can a Patent Application be submitted.

Without waiving my objections to Sec. 108 in total, there should not be an arbitrary "Patent Application" cut-off date tied to February 6, 1991 (which, in and of itself raises serious constitutional issues), nor should the cut-off event associated with any cut-off date be tied to an arbitrary, unreasonable and discriminatory standard, such as the filing of the "Patent Application."

Hon. Nick Joe Rahall, Chairman
Mining and Natural Resources Subcommittee
Page 5 April 4, 1991

Please give your consideration to the foregoing comments.

Very truly yours,

A handwritten signature in cursive script, reading "Glen E. Fuller". The signature is written in dark ink and is positioned above the printed name.

Glen E. Fuller

GEF:mmm